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January 3, 2006

FAX

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Centralized Fax Dept. GAU 2144 Examiner Thanh Nguyen	571.273.8300	U.S. Patent and Trademark Office Alexandria, VA 22313-1450

Brenda O. Holmes _____ 4 _____
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COMMENTS

Applicant:	Matt Ayers	
Title:	Method and System for Directing Requests for Content to a Content Server Based on Network Performance	
Serial No./Docket No.:	09/575,839	52224/296056
Filed:	05/22/2000	

PAPERS SUBMITTED:

1. PTO/SB/21 – Transmittal Form;
2. Request to Treat Filing of Pre-Appeal Brief Request for Review as Notice of Appeal and Pre-Appeal Brief Request for Review.

Date: January 3, 2006
 By: Brenda O. Holmes, Reg. No. 40,339

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PTO/SB/21 (09-04)

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TRANSMITTAL
FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number

09/575,839

Filing Date

05/22/2000

First Named Inventor

Matt Ayers

Art Unit

2144

Examiner Name

Thanh Nguyen

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Attorney Docket Number

52224/296056

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> <input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> <input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	1) Request to Treat Filing of Pre-Appeal Brief Request for Review as Notice of Appeal and Pre-Appeal Brief Request for Review
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Reply to Missing Parts/ Incomplete Application	<input type="checkbox"/> Landscape Table on CD	
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Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	KILPATRICK STOCKTON LLP		
Signature	<i>Brenda O. Holmes</i>		
Printed name	Brenda O. Holmes		
Date	01-03-2006	Reg. No.	40,339

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO's Centralized Facsimile Number (571) 273.8300 on the date shown below.

Signature	<i>Janie Wilkins</i>		
Typed or printed name	Janie Wilkins	Date	1/3/06

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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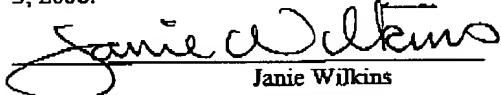
APPLICANT: **Matt Ayers** ART UNIT: **2144**
 SERIAL NO.: **09/575,839** EXAMINER: **Thanh Nguyen**
 FILED: **05/22/2000**

FOR: **Method and System for Directing
Requests for Content to a
Content Server Based on
Network Performance**

ATTORNEY DOCKET NO.: 52224/296056
P1088

CERTIFICATE OF TRANSMITTAL

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office's Centralized Facsimile Number of 571.273.8300 on January 3, 2006.


Janie Wilkins

Request To Treat Filing Of Pre-Appeal Brief Request For Review As Notice Of Appeal
And Pre-Appeal Brief Request For Review

Sir:

On December 22, 2005 a Pre-Appeal Brief Request for Review was filed via facsimile in the above-referenced application. The Pre-Appeal Brief Request for Review was accompanied by a transmittal form (PTO/SB/21), a petition for an extension of time (PTO-SB/22), a credit card payment form for the appeal fee and the extension of time fee (PTO-2038), and a facsimile cover sheet which listed all of the foregoing documents, plus a notice of appeal (PTO/SB/31).

It has come to the attention of the undersigned that although the notice of appeal was prepared and executed on December 22, 2005, the notice of appeal may not have been included with the facsimile transmission of December 22, 2005. It is respectfully requested that the Office treat the filing of the Pre-Appeal Brief Request

**Request To Treat Filing Of Pre-Appeal Brief Request For Review As Notice Of Appeal And Pre-Appeal Brief Request For Review fax-filed 01/03/06
Serial No. 09/575,839
Page 2 of 2**

for Review as the filing of the notice of appeal and the Pre-Appeal Brief Request for Review. Treating the filing of the Pre-Appeal Brief Request for Review in this manner would be consistent with the Office's practice of treating an appeal brief as a notice of appeal and an appeal brief when an appeal brief is filed without first filing a notice of appeal. MPEP 1204.

If there are any issues that can be resolved via a telephone conference, please contact the undersigned at 404/685-6799.

Respectfully submitted,



Brenda O. Holmes
Reg. No. 40,339

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PAGE 4/4 * RCVD AT 1/3/2006 4:00:54 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/32 * DNIS:2738300 * CSID:404 815 6555 * DURATION (mm:ss):01:34